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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 45 (WISCONSIN) REVISED 700 MHZ REGIONAL PLAN

PS Docket No. 06-229; WT Docket No. 02-378

Introduction. On January 31, 2008, the Region 45 (Wisconsin)¹ 700 MHz Regional Planning Committee (RPC) (Region 45) submitted a revised 700 MHz Public Safety Plan (Revised Plan) for General Use² spectrum in the 769-775/799-805 MHz band.³ On March 13, 2008, Region 45 submitted a letter of concurrence from Region 22 (Minnesota) to correct an omission, and on May 1, 2008, Region 45 submitted a revised Appendix K - County Channel Allotment, to replace the initial channel allotment sort with the new consolidated narrowband frequencies.⁴ For the reasons discussed below, we approve the Region 45 700 MHz Revised Plan.

Background. In 1998, the Federal Communications Commission (Commission) established a structure to allow RPCs optimal flexibility to meet state and local needs, encourage innovative use of the spectrum, and accommodate new and as yet unanticipated developments in technology and equipment.⁵ There are fifty-five RPCs, and each committee is required to submit its plan for the General Use

¹ The Region 45 (Wisconsin) regional planning area includes sixty-one (61) counties, and excludes the counties of Dane, Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha which are part of the Region 54 (Illinois – Great Lakes) planning area. Also, the Region 45 area includes five Native tribal nations: Chippewa, Ho-Chunk, Menominee, Oneida and Potawatomi.

² General Use spectrum is administered by RPCs and licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

³ See Letter from Russell Schreiner, Chairperson, Region 45, 700 MHz Regional Planning Committee, to Federal Communications Commission, Public Safety and Homeland Security Bureau, WT Docket No. 96-86, PS Docket No. 06-229 (filed Jan. 31, 2008) (Revised Plan). Region 45 initially filed a 700 MHz plan on Feb. 27, 2007.

⁴ See Letter from Paul Wittkamp, Secretary, Region 45, 700 MHz Regional Planning Committee, to Federal Communications Commission, Office of the Secretary, Public Safety and Homeland Security Bureau, WT Docket No. 96-86, PS Docket No. 06-229 and WT Docket No. 02-378 ((filed Mar. 13, 2008) (submitting letter of concurrence from Region 22 (Minnesota)); Comment from Paul Wittkamp, Secretary, Region 45, 700 MHz Regional Planning Committee, PS Docket No. 06-229, WT Docket No. 02-378 (filed May 1, 2008) (submitting revised Appendix K – County Channel Allotment, replacing the Appendix K originally filed as part of the Region 45 700 MHz Plan on Jan. 31, 2008).

⁵ See Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152 (1998) (*First Report and Order*); *Second Memorandum Opinion and Order*, 15 FCC Rcd 16844 (2000). See also 47 C.F.R. § 90.527.

spectrum.⁶ The Commission's role in relation to the RPCs is limited to (1) defining the regional boundaries; (2) requiring fair and open procedures, *i.e.*, requiring notice, opportunity for comment, and reasonable consideration; (3) specifying the elements that all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.⁷

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.⁸ The Commission adopted a plan for the 700 MHz band to establish a nationwide, interoperable public safety broadband communications network for the benefit of state and local public safety users. The Commission designated the lower half of the 700 MHz public safety band for broadband communications (763-768/793-798 MHz) and consolidated existing narrowband allocations in the upper half of the public safety 700 MHz band (769-775/799-805 MHz).

In revising the band plan for the public safety 700 MHz band, the Commission noted that consolidating the narrowband channels in the upper part of the band will impact approved and pending 700 MHz RPC plans (*i.e.* require that the plans be amended).⁹ The Commission required RPCs with approved plans or plans on file to submit amended plans consistent with the decisions adopted in the *Second Report and Order* by November 23, 2007.¹⁰ On November 9, 2007, the Public Safety and Homeland Security Bureau (Bureau) extended the deadline for RPCs to submit amended plans, consistent with the decisions adopted in the *Second Report and Order*, to January 31, 2008, and provided additional guidance for the development of plan amendments.¹¹

Plan Requirements. Each RPC is required to submit its plan for the assignment of licenses for General Use spectrum.¹² Each regional plan must contain certain elements¹³ and must be coordinated

⁶ See 47 C.F.R. § 90.527. Each RPC must incorporate certain common elements into its 700 MHz plan. A list of 700 MHz RPCs and region activities is available at <http://www.fcc.gov/pshs/public-safety-spectrum/700-MHz/>.

⁷ *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

⁸ Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007) (*Second Report and Order*).

⁹ *Id.* at 15414 ¶ 346.

¹⁰ As of the adoption date of the *Second Report and Order*, the following regional plans had been approved: Region 5 (Southern California), Region 19, (New England), Region 24 (Missouri), Region 22 (Minnesota), Region 12 (Idaho), Region 39 (Tennessee), Region 43 (Washington), Region 41 (Utah), Region 3 (Arizona), and Region 40 (Northern Texas). The following regional plans were pending as of the adoption date of the *Second Report and Order*: Region 1 (Alabama), Region 27 (Nevada), Region 45 (Wisconsin), Region 7 (Colorado), Region 9 (Florida), Region 16 (Kansas), and Region 20 (Northern Virginia, Maryland and the District of Columbia).

¹¹ See Public Safety and Homeland Security Bureau Announces an Extension of the Deadline for 700 MHz Regional Planning Committees to Amend 700 MHz Narrowband Plans from November 23, 2007 to January 31, 2008, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 19461 (PSHSB 2007).

¹² See 47 C.F.R. §§ 90.527, 90.531. The 700 MHz public safety band plan contains 24 MHz of spectrum for public safety services at 763-775 MHz and 793-805 MHz, and the narrowband allocation is divided into several segments by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels.

¹³ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

with adjacent regions.¹⁴ RPCs are expected to ensure that their committees are representative of all public safety entities in their regions by providing adequate notice of all meetings, opportunity for comment, and reasonable consideration of views expressed. Plans must include an explanation of how all eligible entities within the region were given such notice.¹⁵ Plans should list the steps undertaken to encourage and accommodate all eligible entities to participate in the planning process, such as holding meetings in various parts of the region. In addition, a regional plan should describe outreach efforts made to tribal governments.¹⁶

Regional plans may differ in approaches to spectrum planning and management. In particular, some plans may make specific assignments to eligible public safety entities, while others may establish an allotment pool approach based on political boundaries such as counties.¹⁷ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the Commission's regional plan requirements.¹⁸ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁹

Review of the Region 45 700 MHz Revised Plan. Region 45 convened its first meeting on May 1, 2003,²⁰ wherein it appointed its officers.²¹ On June 4, 2003, Region 45 adopted Bylaws²² and established five subcommittees: Interoperability, Technical and Research, Implementation, Finance, and 4.9 GHz.²³ The Revised Plan includes an outreach notification process;²⁴ a membership list;²⁵ and meeting minutes.²⁶

¹⁴ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

¹⁵ See *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84. The Commission directed RPCs to promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 ¶ 86.

¹⁶ *Id.* at 193-94 ¶ 84.

¹⁷ See Revised Plan, Appendix K – County Channel Allotment. Frequencies are allotted by “county area” which is defined as the geo-political boundaries of a given county, plus a distance of up to ten miles outside of the county. The allocation plan was developed using the Computer Assisted Pre-coordination Resource and Database System (CAPRAD), a spectrum management tool provided by National Institute of Justice, National Law Enforcement and Corrections Technology Center. The CAPRAD system is available at <http://caprad.nlectc.du.edu>.

¹⁸ 47 C.F.R. § 90.527.

¹⁹ The NCC was a federal advisory committee established by the Commission in 1999 to address and advise the Commission on operational and technical parameters for use of the 700 MHz public safety band. In addition, the NCC was tasked with providing voluntary assistance in the development of coordinated regional plans, and developed a *Regional Planning Guidebook*. Following the sunset of the NCC's charter on July 25, 2003, the National Public Safety Telecommunications Council (NPSTC) agreed to continue to provide assistance to regional planners. A copy of the 700 MHz Regional Planning Guidebook is available at the NPSTC website at <http://www.npstc.org/documents.html>.

²⁰ See Revised Plan Section 4.1 Convening of the RPC at 9.

²¹ See Revised Plan Appendix J – Current List of Executive Committee Officers at 98.

²² See Revised Plan Appendix A – Bylaws at 38-42.

²³ See Revised Plan Appendix E – Meeting Minutes at 66-67 (June 4, 2003).

²⁴ See Revised Plan, Section 4 – Notification Process at 9-10 (describing outreach methods - RPC master email distribution list; APCO and Wisconsin NENA websites, and inter-agency notices); see also, copies of meeting announcements at Appendix D Meeting Announcements, and Appendix C – Attendance (demonstrating level of participation from agencies and tribal nations).

²⁵ See Revised Plan Appendix B – Region 45 Notification (listing agencies contacted and membership information).

The Revised Plan describes the procedure for requesting spectrum allotments,²⁷ provides detailed guidance for the use of interoperability channels;²⁸ and reviews the TV/DTV interference protection criteria requirements.²⁹ The Revised Plan provides a future planning procedure and CAPRAD database maintenance.³⁰ The Region 45 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).³¹

The Region 45 Revised Plan pre-allocates the consolidated narrowband General Use spectrum by county.³² The Revised Plan was coordinated with all five regions adjacent to Region 45: Region 13 (Illinois), Region 15 (Iowa), Region 21 (Michigan), Region 22 (Minnesota), and Region 54 (Illinois-Great Lakes).³³

The Revised Plan includes the following elements:

- Deletes references to the former wideband frequency ranges between 767 MHz to 773 MHz, and 797 MHz to 803 MHz.
 - Adds Plan Section 8.2 to address “Spectrum Requests for Wideband Operations.”³⁴
 - Revises Plan Table 3 Spectrum Allotment Summary, by removing former data channels.³⁵

²⁶ See Revised Plan Appendix E – Meeting Minutes at 65-77.

²⁷ See Section 5.7 Overview of the 700 MHz Public Safety Frequency Coordination Database and Application Flow Chart at 15-17; *see also*, Table 3 – Region 45 Planning Summary (spectrum allotment summary showing total available channels: General Use, Interoperability, Secondary Trunking, Interoperability Nationwide Call, Interoperability Low Speed Data, and Low Power); and Figure 2 – Region 45 Coordination Flow Chart (outlining frequency request process, application requirements, RPC review, frequency coordination and post-licensure database updates); Revised Plan, Section 10 Explanation of How All the Region Eligibles’ Needs Were Considered, and to the Extent Possible, Met (describing open application process -- agencies may submit application packages electronically to the RPC chair at any time).

²⁸ See Revised Plan, Section 6 Utilization of Interoperability Channels at 18-23; *see also* Appendix F – Interoperability Channels and Technical Parameters at 78-80.

²⁹ See Revised Plan, Section 5.3 Guidelines for Protection of Incumbent TV/DTV Stations at 11-14; *see also* 47 C.F.R. § 90.545 TV/DTV Interference Protection Criteria.

³⁰ See Revised Plan Section 13 Future Planning Procedures (CAPRAD will be use to retain channel allotments in each county); *see also*, Appendix A – By-laws (annual meetings to be held in January each year).

³¹ See 47 C.F.R. § 90.531(a)(8); Revised Plan, Section 14 – RPC Chairperson Certification that all planning meetings, executive and subcommittee meetings were open to the public.

³² See Revised Plan, Appendix K – County Channel Allotment (filed May 1, 2008).

³³ See 47 C.F.R. 90.527(a)(5) (each regional planning committee must provide an explanation of how the plan has been coordinated with adjacent regions). *See also* Plan Appendix N - Adjacent Region *Second R&O* Concurrence at 122-126 (includes letters of concurrence from Region 13 (Illinois), Region 15 (Iowa), Region 21 (Michigan), Region 22 (Minnesota) and Region 54 (Illinois-Great Lakes).

³⁴ See Revised Plan, Section 8.2 Spectrum Requests for Wideband Operations at 25.

³⁵ See Revised Plan Table 3 – Spectrum Allotment Summary at 16.

- Adds new references to the new consolidated narrowband band plan, 769 MHz to 775 MHz, and 799 MHz to 805 MHz.
 - Revises County Channel Allotment Table by removing old frequencies associated with FCC channel numbers.³⁶
- Adds certifications from all adjacent regions to indicate mutual agreement with the Region 45 Dispute Resolution Process.³⁷

On June 2, 2008, the Region 45 Revised Plan was placed on *Public Notice* for comment.³⁸ We received no comments. We have reviewed the Plan submitted by Region 45, and conclude, based on the information before us, that it complies with FCC rules and policies. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.102(b) of the Commission's rules, 47 C.F.R. § 1.102(b), the Revised Region 45 (Wisconsin) 700 MHz Public Safety Plan is APPROVED.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

Action by the Chief, Policy Division, Public Safety and Homeland Security Bureau.

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³⁶ See Revised Plan Section 8 – Allocation of General Use Spectrum (Narrowband Channels; Appendix K – Region 45 County Channel Allotment.

³⁷ See Revised Plan Section 15 – A Certification By Adjacent Regions That Inter-Regional Coordination Procedures and Resolution of Dispute Procedures Have Been Reviewed and Mutually Agreed To at 30- 36 (includes copy of signed certifications of *Inter-Regional Coordination Procedures and Procedures for Resolution of Disputes That May Arise Under FCC Approved Plans* agreements between Region 45 and its five adjacent regions).

³⁸ See Comments Invited on Region 45 (Wisconsin) 700 MHz Regional Planning Committee Revised Public Safety Plan, PS Docket No. 06-229, WT Docket No. 02-378, *Public Notice*, 23 FCC Rcd 8644 (PSHSB 2008). Comments were due June 23, 2008, and reply comments were due July 3, 2008.